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UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

IN RE: MIDLAND CREDIT
MANAGEMENT INC.
TELEPHONE CONSUMER
PROTECTION ACT LITIGATION

Case No. 11-md-2286 MMA (MDD)

**DEFENDANTS' NOTICE OF MOTION
AND MOTION FOR AN ORDER TO
SHOW CAUSE RE: DISMISSAL FOR
FAILURE TO SUBMIT PLAINTIFF
QUESTIONNAIRES**

This document relates to member
cases listed on Exhibit A

Hon. Mitchell D. Dembin

PLEASE TAKE NOTICE THAT on a date and time to be set by the Court, in the courtroom of the Honorable Mitchell D. Dembin, United States Magistrate Judge, 333 West Broadway, San Diego, California, Defendant Midland Credit Management, Inc., through its attorneys of record, will, and hereby does, move the Court for an order requiring each plaintiff in the member cases listed on Exhibit A hereto, to appear and show cause as to why his or her case should not be dismissed for failing to comply with the Questionnaire Order. *See* Order Granting Joint Motion Regarding Plaintiff Questionnaire and Protective Order (the “Questionnaire Order”), ECF 608, ¶ 7.

This motion is brought on the ground that all of the plaintiffs in the cases listed on Exhibit A failed to comply with the Court’s Order to submit a completed questionnaire within 45 days of the Order—i.e., by October 22, 2018. ECF 608, ¶ A.1; Declaration of Amy M. Gallegos, ¶ 2. The Questionnaire Order stated that Defendants “may file a motion for an order to show cause re dismissal as to any plaintiff who fails to return a Plaintiff Questionnaire.” *Id.*, ¶ A.7. Moreover, courts may dismiss an action in an MDL where, as here, the plaintiff fails to comply with a court-ordered questionnaire process. *See In re Phenylpropanolamine Products Liability Litigation*, 460 F.3d 1217 (9th Cir. 2006). This district’s local rules are in accord. *See* Civil Local Rule 83.1.a (“Failure of . . . any party to comply with these rules . . . or with any order of the court may be grounds for imposition by the court of any and all sanctions authorized by statute or rule or within the inherent power of the court, including, without limitation, dismissal of any actions . . .”); Civil Local Rule 41.1.b (“Failure to comply with the provisions of the local rules of this court may also be grounds for dismissal under this rule.”).

This motion is based on this notice of motion, the attached memorandum of points and authorities and accompanying declaration, the complete files and records of this action, and such other matters and arguments as may come before the Court.

1 Dated: November 13, 2018

JENNER & BLOCK LLP

2 /s/ Amy M. Gallegos

3 Amy M. Gallegos

4 Attorney for Defendants
5 Midland Funding LLC,
6 Midland Credit Management, Inc.,
7 and Encore Capital Group, Inc.

Exhibit A

	Case Name	Case No.
1.	Akers v. Midland	3:14-cv-00240-MMA-MDD
2.	Basham v. Midland	3:15-cv-01479-MMA-MDD; 3:15-cv-022282-MMA-MDD
3.	Carter v. Midland	3:14-cv-01160-MMA-MDD
4.	Christian v. Midland	3:18-cv-00019-MMA-MDD
5.	Clark v. Midland	3:16-cv-02078-MMA-MDD
6.	Clavesilla v. Midland	3:14-cv-00642-MMA-MDD
7.	Conger v. Midland	3:16-cv-02365-MMA-MDD
8.	Cooper v. Midland	3:14-cv-00382-MMA0MDD
9.	Covington v. Midland	3:17-cv-00784-MMA-MDD
10.	De La Cruz v. Midland	3:17-cv-01639-MMA-MDD
11.	Doherty v. Midland	3:13-cv-02010-MMA-MDD
12.	Dotson v. Midland	3:14-cv-01760-MMA-MDD
13.	Dunn v. Midland	3:16-cv-02459-MMA-MDD
14.	Eaton et al v. Midland Credit Management Inc.	3:16-cv-03025-MMA0MDD
15.	Fedarko v. Midland	3:13-cv-01517-MMA-MDD
16.	Floyd v. Midland	3:14-cv-02423-MMA-MDD
17.	Goetz v. Midland	3:13-cv001478-MMA-MDD
18.	Holland v. Midland	3:14-cv-00506-MMA-MDD
19.	Huffman et al. v. Midland	3:17-cv-01015-MMA-MDD
20.	Jesula v. Midland	3:15-cv-02009-MMA-MDD
21.	Jones v. Midland	3:14-cv-01337-MMA-MDD
22.	Khah v. Midland	3:14-cv-00398-MMA-MDD
23.	King v. Midland	3:14-cv-02909-MMA-MDD
24.	Lauderdale v. Midland	18-cv-483-MMA(MDD)
25.	Laurore v. Midland	3:16-cv-02487-MMA-MDD
26.	Leone v. Midland	3:14-cv-00905-MMA-MDD
27.	Little v. Midland	3:17-cv-00975-MMA-MDD
28.	Love v. Midland	3:14-cv-02881-MMA-MDD
29.	Mack v. Midland	3:15-cv-00723-MMA-MDD
30.	Maitlen v. Midland	3:15-cv-02636-MMA-MDD
31.	Manasse v. Midland	3:13-cv-01519-MMA-MDD
32.	McCulley v. Midland	3:16-cv-01361-MMA-MDD
33.	McDonald v. Midland	3:14-cv-00689-MMA-MDD
34.	McGee v. Midland	3:14-cv-01317-MMA-MDD
35.	Miller et al. v. Midland	3:17-cv-00451-MMA-MDD
36.	Miller v. Midland	3:15-cv-00710-MMA-MDD
37.	N.L. v. Midland	3:14-CV-01442-MMA-MDD
38.	Neal v. Midland	3:15-cv-00896-MMA-MDD
39.	Nelson v. Midland	3:15-cv-02008-MMA-MDD
40.	Pacheco v. Midland	3:17-cv-00451-MMA-MDD
41.	Permenter v. Midland	3:15-cv01644-MMA-MDD
42.	Peterson v. Midland	3:14-cv-01808-MMA-MDD
43.	Prows v. Midland	3:13-cv-00800-MMA-MDD

44.	Pugh v. Midland	3:16-cv-01977-MMA-MDD
45.	Quesada v. Midland	3:14-cv-02133-MMA-MDD
46.	Quevedo v. Midland	3:14-cv-00381-MMA-MDD
47.	Roy v. Midland	3:13-cv-02882-MMA-MDD
48.	Rumbough v. Capital One Bank (USA)	3:15-cv-02943-MMA-MDD
49.	Santamaria v. Midland	3:14-cv-00242-MMA-MDD
50.	Siddal v. Midland	3:13-cv-02558-MMA-MDD
51.	Smith et al v. Midland	3:14-cv-01386-MMA-MDD
52.	Spencer v. Midland	2:17-cv-00605-MMA-MDD
53.	Treshan et al. v. Midland	3:15-cv-01821-MMA-MDD
54.	Vaccaro v. Midland	3:17-cv-00473-MMA-MDD
55.	Valliere v. Midland	3:14-cv-01960-MMA-MDD
56.	Vasquez v. Midland	3:16-cv-01294-MMA-MDD
57.	Ward et al. v. Midland	3:17-cv-00448-MMA-MDD
58.	Watters v. Midland	3:17-cv-01687-MMA-MDD
59.	Wentworth v. Midland	3:14-cv-01355-MMA-MDD
60.	Wong v. Midland	3:14-cv-01538-MMA-MDD
61.	Wright v. Midland	3:13-cv-02821-MMA-MDD

CERTIFICATE OF SERVICE

I, Amy M. Gallegos, hereby certify that on November 13, 2018 a copy of the foregoing document was served on all counsel of record by operation of the Court's electronic case filing (ECF) system and all non-registered users were served via U.S. Mail Service.

/s/ Amy M. Gallegos

Amy M. Gallegos